

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Hayward L. Rogers,)	
)	C/A No. 3:19-1898-TMC
Plaintiff,)	
)	
v.)	ORDER
)	
Lexington County Court of General)	
Sessions, and Assistant Solicitor)	
Casey Rankin-Smith,)	
)	
Defendants.)	
_____)	

Plaintiff Hayward L. Rogers, a prisoner proceeding pro se, filed this action pursuant to 42 U.S.C. § 1983. (ECF No. 1). Plaintiff also filed a motion to proceed *in forma pauperis* (“IFP”). (ECF No. 2). On August 1, 2019, Magistrate Judge Mary Gordon Baker issued a Report and Recommendation (“Report”) recommending that the (1) the court deny Rogers’ IFP motion; 2) the court give Rogers twenty-one days to pay the filing fee; and (3) if Rogers does not timely pay the filing fee, the court dismiss the case without prejudice and have the Clerk enter final judgment at the end of the payment period. (ECF No. 7 at 2).¹ Plaintiff was advised of his right to file objections to the Report. *Id.* at 3. Plaintiff, however, has not filed any objections, and the time to do has now run.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections, this court is not required to provide an explanation for

¹In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2), D.S.C., all pre-trial proceedings were referred to a magistrate judge.

adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Furthermore, failure to file specific written objections to the Report results in a party’s waiver of the right to appeal the district court’s judgment based upon that recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and the record in this case, the court adopts the Magistrate Judge’s Report (ECF No. 7) and incorporates it herein. Accordingly, Plaintiff’s IFP motion (ECF No. 2) is **DENIED**. Further, Plaintiff shall have twenty-one days to pay the filing fee, and, if he does not timely pay the filing fee, the court will dismiss this case without prejudice.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Anderson, South Carolina
August 20, 2019

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 \ of the Federal Rules of Appellate Procedure.